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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/614,361 | 07/07/2003 | Hirotsugu Takeuchi | 4041J-000733 | 7893 |

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EXAMINER

ALI, MOHAMMAD M

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3744

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,361

Applicant(s)

TAKEUCHI, HIROTSUGU

Examiner

Mohammad Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11, 13 and 15-17 is/are rejected.
7) ☒ Claim(s) 12 and 14 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1—11, 13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newton (3,701,264) in view of Sugawara et al., (6,858,340). Newton discloses an ejector device M' for a refrigeration cycle that includes a radiator/condenser C' for radiating heat of refrigerant compressed by a compressor VC', and an evaporator E' for evaporating refrigerant after being decompressed, the ejector decompression device M' comprising a nozzle 22' having an inner wall defining a refrigerant passage 105, for decompressing an expanding refrigerant flowing from the radiator C' by converting pressure energy of refrigerant to speed energy of the refrigerant, the nozzle including a throat portion having a cross-sectional area that is smallest in the refrigerant passage of the nozzle 22', and an expansion portion in which

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the cross-sectional area is increased toward downstream in a refrigerant flow, a pressure increasing portion that is disposed to increase a pressure of refrigerant by converting the speed energy of refrigerant to the pressure energy of refrigerant while mixing refrigerant injected from the nozzle and refrigerant sucked from the evaporator, and a needle valve 104 disposed in the refrigerant passage 105 of the nozzle 22', wherein the needle valve and the inner wall of the nozzle are provided to have predetermined shapes so that refrigerant flowing into the nozzle 22' is decompressed to a gas-liquid two-phase state at upstream from the throat portion in the refrigerant flow, a control means/actuator 101 for adjusting the position of needle valve 104 extending in an axial direction from the throat portion to the outlet of the nozzle 22. See Fig. 3.

Newton discloses the invention substantially as claimed as stated above. However, Newton does not disclose to adjust exit opening of the outlet of the nozzle. Sugawara et al., teach the use of an adjustment unit 35/36 to adjust the outlet opening 52 of the nozzle 32 in a variable flow rate ejector system for the purpose of controlling fluid flow. See Fig. 2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the injector device of Newton in view of Sugawara et al., such that a device could be provided in order to adjust the exit opening of the nozzle in order to control the fluid flow.

Allowable Subject Matter

Claims 12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Response to Arguments

Applicant's arguments, see remarks pages 7-13, filed 02/23/05, with respect to the rejection(s) of claim(s) 1-17 under 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of new prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is 703-308-5032. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esquivel Denise can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
April 25, 2005

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